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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-222890.2 **DATE:** May 28, 1986

MATTER OF: Ledoux & Company--Request for
Reconsideration

DIGEST:

Protester's alleged mailing of a copy of its protest to an employee of the contracting agency who was not connected with the issuing activity or the procurement does not satisfy the requirement in GAO Bid Protest Regulations to file a copy of the protest with designated agency personnel within 1 day of filing with GAO, since the appropriate agency people had no notice of the basis for the protest.

Ledoux & Company requests that we reconsider our April 28, 1986, dismissal of its protest against solicitation No. DLA200-86-B-0302 issued by the Defense Logistics Agency (DLA). Ledoux complained that the awardee, Princeton Testing Laboratory (Princeton), may not have personnel with experience sufficient to meet the responsibility criteria mandated by the solicitation. We dismissed Ledoux's protest because we were advised by the agency that Ledoux failed to file a copy of its protest with designated agency personnel within 1 day after its filing in our Office, as required by our Bid Protest Regulations, 4 C.F.R. § 21.1(d) (1985).

Ledoux bases its reconsideration request on its claim that it filed a copy of the protest with a DLA representative in Alexandria, Virginia, whom it believed was in charge of the program involved. We affirm the dismissal.

The protest system established by the Competition in Contracting Act of 1984 (CICA), and implemented by our Regulations, is designed to provide for the expeditious resolution of protests with only minimal disruption to the orderly process of government procurement. See 31 U.S.C.A. § 3554 (West Supp. 1985). To that end, the contracting agency is required to report within 25 working days from its receipt of notice of the protest from our Office, 31 U.S.C.A. § 3553, and the protest must be resolved by our Office within 90 working days. 31 U.S.C.A. § 3554.

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Clearly, then, unless the appropriate people within the contracting agency promptly receive a copy of the protest, the agency's ability, and ours, to comply with statutorily mandated timeframes is jeopardized. See Sabreliner Corp., B-218033, Mar. 6, 1985, 85-1 C.P.D. ¶ 280. Our Regulations, therefore, expressly provide, in requiring that a protester file a copy of its protest with contracting agency within 1 day of filing in our Office, that the copy be furnished to the individual or location designated by the contracting agency in the solicitation or, if no such designation is made in the solicitation, with the contracting officer. 4 C.F.R. § 21.1(d).

DLA informs us that the issuing activity for the procurement is in Michigan, and that the representative in Alexandria, Virginia, to whom Ledoux allegedly sent a copy of its protest, in no way is connected with this procurement (although he is a project manager). Ledoux's mailing a copy of its protest to that person thus did not meet the requirements of, or otherwise fulfill the purpose of, our Regulations in the above respect.

Ledoux points out that, under our Regulations, dismissal by our Office for failure to file a copy of the protest with designated agency personnel is discretionary, not mandatory. The firm argues that we should review the protest despite the filing deficiency because it concerns the evaluation of precious metals belonging to the United States government and, thus, is of special import. We reject Ledoux's argument.

While Ledoux is correct that dismissal of a protest for failure to file a copy with designated agency personnel on time is within our discretion, we grant exceptions to the 1-day notice requirement for appropriate reasons. See Sabin Metal Corp.--Reconsideration, B-219171.2, July 24, 1985, 85-2 C.P.D. ¶ 79. Cases where we have considered the merits of a protest even though the protester failed to file on time with the agency generally involve situations where the appropriate agency people already were on notice of the protest and, thus, the purposes of CICA and our Regulations were effected. E.g., Hewitt, Inc., B-219001, Aug. 20, 1985, 85-2 C.P.D. ¶ 200; Florida Precision Systems, Inc.--Request for Reconsideration, B-219448.2, Aug. 12, 1985, 85-2 C.P.D. ¶ 160. That was not the case here.

Moreover, to the extent that Ledoux is arguing that its protest should be considered under the exception in our Regulations for issues significant to the procurement community, its argument is without merit. The "significant issue" exception in section 21.2(c) of our Regulations applies only to protests that are filed untimely with our Office. The exception is not for application in determining whether a protest that was timely filed with our Office, but was otherwise deficient, should be considered. See Marconi Electronics, Inc.--Reconsideration, 64 Comp. Gen. 331 (1985), 85-1 C.P.D. ¶ 289.

Our dismissal of Ledoux's protest is affirmed.

Harry R. Van Cleve

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General Counsel